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TO THE SITUATION ROOM

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T O P S E C R E T SENSITIVE EXCLUSIVELY EYES ONLY

HAKTO 9

DECEMBER 4, 1972

TO: KENNEDY -FLASH-

FROM: KISSINGER

PLEASE PASS THE FOLLOWING REPORT TO THE PRESIDENT  
IMMEDIATELY. BEGIN TEXT.

1. AFTER TODAY'S SESSION WE ARE AT A POINT WHERE A BREAK-OFF OF THE TALKS LOOKS ALMOST CERTAIN. THIS MORNING HAIG AND I MET PRIVATELY WITH LE DUC THO AND XUAN THUY FOR 2 1/2 HOURS AND CAME AWAY SOMEWHAT ENCOURAGED. I MADE A CONCILIATORY PRESENTATION, STRIPPING DOWN OUR REMAINING REQUESTS OF LAST WEEK TO THE MINIMUM. I ALSO EMPHASIZED HOWEVER, THAT WE MUST HAVE THESE MINIMUM CHANGES IN ORDER TO PRESS THE AGREEMENT ON OUR ALLIES. ESSENTIALLY I PROPOSED THE COMPROMISE THAT WE EXPLAINED TO THE SOUTH VIETNAMESE WHICH WOULD LIKE DE FACTO NORTH VIETNAMESE WITHDRAWALS TO THE RELEASE OF SOUTH VIETNAMESE CIVILIANS OUTSIDE OF THE AGREEMENT; ACCEPT IN ESSENCE THE POLITICAL PROVISIONS, ASKING ONLY FOR THE CORRECT TRANSLATION OF "ADMINISTRATIVE STRUCTURE" TO MAKE CLEAR THE COUNCIL IS STRICTLY NON-GOVERNMENTAL; AND ESTABLISH THE PRINCIPLE THAT NORTH VIETNAMESE TROOPS WOULD NOT HAVE THE UNRESTRICTED RIGHT TO INTERVENE IN SOUTH VIETNAM THROUGH ONE OR MORE OF SEVERAL FORMULATIONS THAT I OFFERED. ALTHOUGH IT WAS A GENERALLY TOUGH SESSION, WE CAME AWAY WITH THE IMPRESSION THAT THEY WOULD NEGOTIATE WITHIN THIS CONTEXT AND SETTLE. IN ANY EVENT, WHILE I SAID WE NEEDED SOME CHANGES, I MADE CLEAR OUR FIRM DETERMINATION TO SETTLE AND OUR REASONABLENESS. I EVEN TOLD THEM ABOUT THE PROJECTED AGNEW MISSION.

2. AT THE FULL MEETING THIS AFTERNOON, WHICH ALSO LASTED 2 1/2 HOURS, THO ANSWERED MY MORNING PROPOSAL POINT BY POINT. HE REJECTED EVERY CHANGE WE ASKED FOR, ASKED FOR A CHANGE ON CIVILIAN PRISONERS, DEMANDED THE WITHDRAWAL OF AMERICAN CIVILIANS FROM SOUTH VIETNAM THUS MAKING THE MAINTENANCE OF THE VIETNAM AIR FORCE IMPOSSIBLE, AND WITHDREW SOME CONCESSIONS FROM LAST WEEK. IN SHORT, WE WOULD WIND UP WITH AN AGREEMENT SIGNIFICANTLY WORSE THAN WHAT WE STARTED WITH. I TOLD HIM FLATLY THAT HIS APPROACH DID NOT PROVIDE THE BASIS FOR A SETTLEMENT. IN THE ENSUING DIALOGUE THO STUCK FIRMLY BY HIS INTRANSIGENT POSITION. THE ONLY ALTERNATIVE HE OFFERED TO HIS PRESENTATION THIS AFTERNOON WAS TO GO BACK TO THE OCTOBER AGREEMENT LITERALLY WITH NO CHANGES BY EITHER SIDE. I TOLD THO THAT I WOULD REPORT HIS POSITIONS TO YOU OVERNIGHT, BUT I WAS QUITE SURE OF YOUR ANSWER. WE AGREED TO MEET AGAIN TOMORROW AT 1500, WITH US SERVING AS HOSTS AT A NEW LOCATION WE HAVE CHOSEN.

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WHITE HOUSE  
SITUATION ROOM



3. IT IS NOT IMPOSSIBLE THAT THO IS PLAYING CHICKEN AND IS WAITING FOR US TO CAVE TOMORROW. BUT I DO NOT THINK SO. THERE IS ALMOST NO DOUBT THAT HANOI IS PREPARED NOW TO BREAK OFF THE NEGOTIATIONS AND GO ANOTHER MILITARY ROUND. THEIR OWN NEEDS FOR A SETTLEMENT ARE NOW OUTWEIGHED BY THE ATTRACTIVE VISION THEY SEE OF OUR HAVING TO CHOOSE BETWEEN A COMPLETE SPLIT WITH SAIGON OR AN UNMANAGEABLE DOMESTIC SITUATION. WE HAVE TWO BASIS CHOICES, ASSUMING AS WE MUST THAT THEIR POSITION IS FINAL: (1) GO BACK TO THE OCTOBER AGREEMENT OR (2) RUN A RISK OF A BREAK-OFF OF THE TALKS.

I BELIEVE THE FIRST OPTION IS IMPOSSIBLE:

-- AFTER ALL OUR DEALINGS WITH SAIGON AND HIS INSISTENCE ON SOME CHANGES THESE PAST WEEKS, THIS WOULD BE TANTAMOUNT TO OVERTHROWING THIEU. HE COULD NOT SURVIVE SUCH A DEMONSTRATION OF HIS AND OUR IMPOTENCE.

-- WE WOULD HAVE NO WAY OF EXPLAINING OUR ACTIONS SINCE LATE OCTOBER.

-- IT WOULD BE AN ENORMOUS PROPAGANDA VICTORY FOR HANOI.

-- MOST IMPORTANTLY, IT WOULD DEPRIVE US OF ANY ABILITY TO POLICE THE AGREEMENT, BECAUSE IF THE COMMUNISTS KNOW WE ARE WILLING TO SWALLOW THIS BACKDOWN, THEY WILL ALSO KNOW THAT WE WILL NOT HAVE THE CAPACITY TO REACT TO VIOLATIONS.

THUS WHILE THE OCTOBER AGREEMENT WAS A GOOD ONE, INTERVENING EVENTS MAKE IT IMPOSSIBLE TO ACCEPT IT NOW.

4. THEREFORE I BELIEVE WE MUST BE PREPARED TO BREAK OFF THE NEGOTIATIONS. THE QUESTION IS HOW WE DO IT, AND HERE WE HAVE TWO TACTICAL OPTIONS. THE FIRST CHOICE IS TO PROPOSE SETTLING ON THE BASIS OF WHERE WE STOOD AT THE END OF LAST WEEK'S ROUND. WE WOULD THUS TRY TO KEEP THE IMPROVEMENTS WE GAINED LAST WEEK ON THE DMZ, LAOS AND CAMBODIA, MILITARY REPLACEMENT, AND NOT SINGLING OUT AMERICAN OBLIGATIONS; DROP OUR REMAINING REQUESTS; AND GET THEM TO DROP THEIR DEMANDS ON CIVILIANS PRISONERS AND WITHDRAWAL OF AMERICAN CIVILIANS. IT IS HIGHLY UNLIKELY THAT THO WILL ACCEPT THIS. FURTHERMORE, EVEN IF HE DID, WE WOULD FACE AN IMPOSSIBLE SITUATION WITH SAIGON BECAUSE WE WOULD HAVE GAINED NO CHANGES IN THE AGREEMENT SINCE THE LAST ROUND.

5. THE SECOND OPTION IS TO INSIST ON MAINTAINING THE CHANGES OF LAST WEEK AND TO BOIL DOWN OUR REMAINING REQUESTS TO TWO: THE CORRECT VIETNAMESE TRANSLATION FOR "ADMINISTRATIVE STRUCTURE" AND ONE OF OUR THREE FORMULATIONS DESIGNED TO ESTABLISH THE PRINCIPLE THAT NORTH VIETNAMESE TROOPS DO NOT HAVE THE LEGAL RIGHT TO INTERVENE INDEFINITELY IN SOUTH VIETNAM. WE WOULD DROP ALL OUR OTHER REQUESTS IN EXCHANGE FOR THEIR DROPPING THEIR CHANGES REGARDING CIVILIAN PRISONERS AND U.S. CIVILIAN PERSONNEL. THIS APPROACH IS OF COURSE EVEN MORE LIKELY OF LEADING TO A BREAKOFF THAN THE FIRST OPTION. HOWEVER I BELIEVE IT IS THE COURSE WE SHOULD CHOOSE FOR THE FOLLOWING REASONS:

-- IF, AS SEEMS TOTALLY UNLIKELY, THE OTHER SIDE BUYS THIS PACKAGE, WE WOULD HAVE GAINED A SIGNIFICANT CHANGE IN BOTH THE POLITICAL AND MILITARY AREAS. THUS THIS EXTRA ROUND WOULD HAVE BEEN JUSTIFIED AND WE WOULD BE IN A STRONGER POSITION VERSUS SAIGON, ALTHOUGH OUR PROBLEMS THERE WOULD STILL BE MASSIVE.

-- IF THE TALKS BREAK DOWN, WE WOULD HAVE A TENABLE POSI-



VERSED SAIGON, ALTHOUGH OUR PROBLEMS THERE WOULD STILL BE MASSIVE.

-- IF THE TALKS BREAK DOWN, WE WOULD HAVE A TENABLE POSITION DOMESTICALLY ON THESE TWO ISSUES. ON THE POLITICAL ONE, WE COULD RIGHTLY SAY THAT WE WERE TRICKED IN THE TRANSLATION AND ALWAYS RESERVED ON IT, AND HANOI IS TRYING TO DISTORT THE ENGLISH PHRASE BY DESCRIBING THE COUNCIL AS GOVERNMENTAL. ON THE MILITARY QUESTION, THE AMERICAN PEOPLE COULD CERTAINLY UNDERSTAND OUR FIGHTING FOR A REFERENCE SOMEWHERE IN THE AGREEMENT THAT PREVENTS A LEGAL SANCTION FOR NORTH VIETNAMESE TROOPS TO REMAIN ON THE TERRITORY OF AN ALLY. THE HARRIS POLL SEEMS TO CONFIRM THIS.

-- WE WOULD THUS SAY THAT THE NEGOTIATIONS FAILED BECAUSE HANOI TRICKED US ON ONE QUESTION AND REFUSED TO PICK ANY ONE OF SEVERAL FORMULATIONS WHICH ESTABLISHED THE PRINCIPLE THAT THEY COULD NOT INTERFERE INDEFINITELY IN SOUTH VIETNAM'S AFFAIRS. THE AMERICAN PEOPLE SHOULD UNDERSTAND OUR POSITION, ESPECIALLY WHEN WE WERE PREPARED DE FACTO TO LET HANOI LEAVE ITS TROOPS IN THE SOUTH FOR NOW.

6. I HAVE NO ILLUSIONS ABOUT WHAT A BREAKOFF IN THE TALKS WILL DO TO US DOMESTICALLY. IF THIS HAPPENS, I WILL TALK TO YOU UPON MY RETURN ABOUT MY OWN RESPONSIBILITY AND ROLE. THE IMMEDIATE TASK NOW, OF COURSE, IS TO SAVE OUR NATIONAL HONOR AND POSITION OURSELVES AS BEST WE CAN WITH OUR PEOPLE AND THE WORLD SO AS TO PURSUE A PRINCIPLED POLICY IN SOUTHEAST ASIA.

THE ABOVE DESCRIPTION OF TODAY'S SESSION CONCERNS TECHNICAL QUESTIONS WHICH ARE ESSENTIALLY BESIDE THE POINT. THE CENTRAL ISSUE IS THAT HANOI HAS APPARENTLY DECIDED TO MOUNT A FRONTAL CHALLENGE TO US SUCH AS WE FACED LAST MAY. IF SO, THEY ARE GAMBLING ON OUR UNWILLINGNESS TO DO WHAT IS NECESSARY; THEY ARE PLAYING FOR A CLEARCUT VICTORY THROUGH OUR SPLIT WITH SAIGON OR OUR DOMESTIC COLLAPSE RATHER THAN RUN THE RISK OF A NEGOTIATED SETTLEMENT.

THIS IS THE BASIC QUESTION; THE REST IS TACTICS. IF THEY WERE WILLING TO SETTLE NOW, I COULD COME UP WITH ACCEPTABLE FORMULAS AND WOULD NOT NEED TO BOTHER YOU. ASSUMING THEY ARE GOING THE OTHER ROUTE, WE ARE FACED WITH THE SAME KIND OF HARD DECISIONS AS LAST SPRING. I BELIEVE THAT THE AMERICAN PEOPLE WILL NOT FAIL YOU NOW JUST AS THEY DID NOT THEN.

I THEREFORE BELIEVE THIS SITUATION WILL REQUIRE YOUR ADDRESSING THE AMERICAN PEOPLE DIRECTLY. WE WILL HAVE TO STEP UP THE BOMBING AGAIN, WHILE AT THE SAME TIME WE WILL PROBABLY WANT TO LAY OUT A POSITIVE NEGOTIATING POSITION FOR THE FUTURE SO AS TO GIVE OUR POLICY A DEFINED OBJECTIVE AND GIVE THE AMERICAN PEOPLE HOPE. I BELIEVE THAT YOU CAN MAKE A STIRRING ANVINCING CASE TO THE AMERICAN PEOPLE AND THAT YOU WILL BE ABLE TO RALLY THEM AS YOU HAVE SO OFTEN IN THE PAST WITH YOUR DIRECT APPEALS. YOUR ADDRESS COULD CONTAIN THE FOLLOWING ELEMENTS:

-- OUR ACCEPTANCE OF THE OCTOBER AGREEMENT WAS ALWAYS CONDITIONED ON CONSULTATIONS WITH OUR ALLIES. SAIGON HAS EVERY RIGHT TO PARTICIPATE SINCE THE WAR IS BEING FOUGHT ON THEIR SOIL BY NORTH VIETNAMESE INVADERS.

-- FURTHERMORE THE OCTOBER AGREEMENT CONTAINED MANY AMBIGUITIES THAT NEEDED CLARIFICATION IF THE PEACE WAS TO BE A SOUND ONE. IN ADDITION TO TECHNICAL AND TRANSLATION CHANGES THERE WERE SUCH ELEMENTS TO BE CLARIFIED AS DE FACTO NORTH VIETNAMESE WITHDRAWALS WHICH WE HAD PROPOSED AND NEVER DROPPED; THE CEASE-FIRES IN LAOS AND CAMBODIA; INTERNATIONAL SUPERVISORY MACHINERY; AND VARIOUS OTHER UNDERSTANDINGS AND PRINCIPLES WHICH NEEDED ELABORATION. THESE WOULD HAVE BEEN EASY TO CLARIFY BUT HANOI ABSOLUTELY REFUSED TO COOPERATE.



-- YOU WOULD EMPHASIZE AS WELL OUR EXTREME REASONABLE-  
NESS IN KEEPING OUR CHANGES TO A MINIMUM DESPITE THE ABOVE  
FACTORS. THE FACT THAT HANOI ACCEPTED SOME MODIFICATIONS LAST  
WEEK ALSO PROVED THEY THEY ADMITTED THAT THE AGREEMENT WAS NOT  
COMPLETE.

-- NEGOTIATIONS FINALLY BROKE DOWN BECAUSE HANOI WOULD  
NOT CORRECT ITS TRICKERY ON TRANSLATING A KEY WORD AND BECAUSE  
THEY REFUSED A WHOLE SERIES OF NON-CONTENTIOUS FORMULATIONS IN  
ORDER TO SANCTIFY THEIR RIGHT TO COMMIT AGGRESSION AGAINST SOUTH  
VIETNAM.

-- YOU WOULD STRESS YOUR DETERMINATION TO PROCEED WITH  
YOUR PRINCIPLED COURSE UNTIL THERE WAS A SOUND AND JUST PEACE,  
AND YOU WOULD UNDERLINE THIS STANCE BY COMBINING FIRM MILITARY  
ACTIONS AND A REASONABLE NEGOTIATING POSITION.

WE WOULD MEANWHILE MOVE DECISIVELY TO BRING ABOUT A  
UNILATERAL U.S. WITHDRAWAL.

7. IN SUM I RECOMMEND PURSUING THE ABOVE OPTION CUTTING  
DOWN OUR REQUESTS TO TWO ON THE EXTREMELY REMOTE CHANCE THAT  
THIS MIGHT PRODUCE AN AGREEMENT, OR TO POSITION OURSELVES  
BETTER FOR WHAT NOW SEEMS TO BE AN INEVITABLE BREAKDOWN IN  
THE NEGOTIATIONS. WE SHALL MEET AGAIN AT 1500 TOMORROW  
AND I NEED INSTRUCTIONS BY THEN.

8. MY OFFICE HAS ALREADY CONTACTED DOBRYNIN AND GIVEN  
HIM THE TOUGHEST WARNING ON THE SITUATION IN YOUR NAME.  
I AM NOW SEEING THE CHINESE AMBASSADOR HERE AND WILL CONVEY  
THE SAME MESSAGE.

WARM REGARDS.      END TEXT.

FOR KENNEDY:

9. I MUST EMPHASIZE AGAIN THAT THE BUREAUCRACY IS NOT TO  
BE TOLD OF THE PRESENT SITUATION AND THERE MUST BE ABSOLUTE  
SECURITY CONCERNING WHERE WE STAND. YOU SHOULD MERELY SAY  
THAT WE ARE IN THE BARGAINING PROCESS AND THERE ARE NO  
DEFINITIVE RESULTS YET.      WARM REGARDS.  
END MESSAGE

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